

**DURHAM, NORTH CAROLINA
MONDAY, MARCH 3, 2008
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Patrick Baker, Interim City Attorney Karen Sindelar, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read proclamations designating March 20, 2008 as Arbor Day and March as American Red Cross Month.

Mayor Bell reported he sent a letter to Coach K congratulating him on his 800th basketball victory at Duke University.

Council Member Woodard made comments on the following events attended and special recognition of individuals, organizations, etc: Installation of NCCU Chancellor Charlie Nelms; Police Department - Annual Block Captain Workshop; 100th Anniversary of Mechanics and Farmers Bank; Human Relations Banquet and honorees: Professor John Hope Franklin, Ann Atwater, Stella Adams; Durham Chamber of Commerce Annual Meeting; and Republik – advertising agency wins Addy awards.

Mayor Bell welcomed Mayor Pro Tempore Cole-McFadden back who was ill for a few days.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk.

City Manager Baker asked that Agenda Item 19 be deferred to the March 6, 2008 Work Session, Agenda Item 11 be referred back to the administration for one cycle and requested that the public hearing date in the motion for Agenda Item 29 be changed to March 17, 2008.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to accept the City Manager's priority items was approved at 7:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

City Manager Baker gave an update on the water supply highlighting the drought conditions, reduction use, current status of lake levels, Teer Quarry and remaining days of supply.

March 3, 2008

He informed Council that the following items would be discussed at the March 6, 2008 Work Session: Ordinance Review for Additional Development Restrictions; 2) Standards for moving to Stage V and Sewer Spill Report.

Mayor Bell thanked Council Member Brown for his work with Triangle J Council of Governments regarding the water issue.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. No items were pulled from the Consent Agenda.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve the Consent Agenda was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: SOCIAL SECURITY NUMBER VERIFICATION (SPECIAL PROJECT / DECEMBER 2007)

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard To receive and accept the report on the Social Security Number Verification Special Project (December 2007) as approved at the January 28, 2008 meeting of the Audit Services Oversight Committee was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve City Council minutes for the February 4, 2008 City Council Meeting; and

To approve City Council action taken at the January 24, 2008 City Council Work Session was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM PLANNING COMMISSION – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive and accept applications for a citizen to fill one (1) vacancy on the Durham Planning

March 3, 2008

Commission to represent District 6 with the term to expire on June 30, 2009 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM BICYCLE AND PEDESTRIAN ADVISORY COMMISSION –
RECEIPT AND ACCEPTANCE OF APPLICATIONS**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive and accept applications for a citizen to fill one (1) vacancy on the Durham Bicycle & Pedestrian Advisory Commission with the term to expire on August 31, 2010 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM AREA TRANSIT AUTHORITY – RECEIPT AND
ACCEPTANCE OF APPLICATIONS**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive and accept applications for citizens to fill three (3) vacancies on the Durham Area Transit Authority Board of Trustees for Regular Members with terms to expire on March 1, 2011 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: STREET ACCEPTANCES – WYNSTEAD @ HOPEVALLEY

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to accept the streets as listed below for maintenance by the City of Durham was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Wynstead @ Hope Valley

- 1) Alben Street – from the centerline of Cook Road east to the end of construction @ STA 18+56.84 (857') and
- 2) Spring Meadow Drive – from the end of construction @ Hope Valley/Spring Meadow PH I portion to the centerline of Alben Street (1,464) and
- 3) Cultivar Lane – from the centerline of Alben Street south to the centerline of Spring Meadow Drive (490') and
- 4) Caliper Way – from the centerline of Alben Street south to the centerline of Spring Meadow Drive (466'.)

March 3, 2008

SUBJECT: BUSINESS LOAN REPORT FOR DECEMBER 2007

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to accept business loan report for December 2007 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF
GENERAL SERVICES BUNDLE - ROUGHTON, NICKELSON, DE
LUCA, PA**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute Professional Services Agreement for the General Services Bundle with Roughton, Nickelson, De Luca, PA in an amount not to exceed \$427,600.00;

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the fee to be paid by the City and do not decrease the goods and services to be provided to the City;

To establish a project contingency in the amount of \$42,000.00; and

To authorize the City Manager to negotiate and execute change orders on the Professional Services Agreement for the General Services Bundle, provided the total cost does not exceed \$469,600.00 which is the full amount budgeted for design phase services plus the project contingency was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: PROPOSED SALE OF CLOSED PORTION OF FAY STREET -
MUHAMMAD ALI DAMAR**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to declare the City's portion of the closed portion of Fay Street (0.21± acres) surplus;

To authorize the City Manager to sell the property pursuant to Section 86 of the City Charter to Muhammad Ali Damar for \$13,500.00; and

To authorize the Mayor to convey the property with a non-warranty deed subject to reservations and easements was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

March 3, 2008

SUBJECT: CONTRACT FOR EASTWAY ELEMENTARY SCHOOL AFTER SCHOOL PROGRAM

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to enter into an agreement to provide \$44,000.00 to the Durham Public Schools Community Education Department for the purpose of subsidizing the provision of After School programs at the Eastway Elementary School for the 2007-2008 school year; and

To authorize the City Manager to modify the agreement before execution if required provided the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the agreement was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: APPROVAL OF THE GRANT AWARD FOR PROJECT M.O.R.E. – GANG PREVENTION AND INTERVENTION INITIATIVE FOR TARGET AREAS IN NORTH EAST CENTRAL AND SOUTH WEST CENTRAL DURHAM

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to accept the Durham County Juvenile Crime Prevention Council Grant by executing the grant documents; and

To adopt the Durham County Juvenile Crime Prevention Council Grant Project Ordinance in the amount of \$46,135.00 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13552

SUBJECT: EXTENSION OF TEMPORARY ORDINANCE PERTAINING TO TAXICAB RATES AUTHORIZING FUEL SURCHARGE

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Authorizing an Extension of a Temporary Gas Surcharge of \$1.00 between the hours of 5:01 am until 11:59 pm through March 5, 2009 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13553

March 3, 2008

**SUBJECT: INTER-LOCAL AGREEMENT BETWEEN THE CITY OF DURHAM
AND THE CITY OF RALEIGH FOR REIMBURSEMENT FOR THE
LONG RANGE TRANSPORTATION PLAN (LRTP) REVENUE
ELEMENT**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute an Inter-local Agreement between the City of Durham and the City of Raleigh for the Long Range Transportation Plan Revenue Element;

To authorize the City Manager to modify the inter-local Agreement before execution provided the modifications do not increase obligations of the City or alter the general intent of the version of the contract approved by City Council; and

To adopt the City of Durham and City of Raleigh Long Range Transportation Plan Revenue Element Grant Project Ordinance was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: ADD NORTH CAROLINA 540 TO NORTH CAROLINA NATIONAL
TRUCK NETWORK (NTN)**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve the North Carolina Department of Transportation request to add a section of NC 540 (from NC 55 in Wake County to I-40 in the City of Durham) to the North Carolina National Truck Network was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: VOLUNTARY ANNEXATION PETITION RECEIVED BY JANUARY 1,
2008 - DUKE LEMUR CENTER**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt a resolution scheduling a public hearing for Monday, March 17, 2008 to receive citizens' comments concerning a voluntary petition for the following property to be annexed with a recommended effective date of June 30, 2008 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

a) FY2008-10 Duke Lemur Center

Note: Further action was taken on this item later in the meeting.

March 3, 2008

SUBJECT: RESOLUTION SUPPORTING REGIONAL PARTNERSHIPS FOR WATER SUPPLY PLANNING AND THE ESTABLISHMENT OF A WESTERN WATER INTAKE ON THE B. EVERETT JORDAN RESERVOIR (JORDAN LAKE)

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt a Resolution Supporting Regional Partnerships for Water Supply Planning and the Establishment of a Western Water Intake on the B. Everett Jordan Reservoir (Jordan Lake) was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9532

The City Council disposed of the following items at the February 21, Work Session.

13. Implementation of a Retirement Health Savings (RHS) Plan

To authorize the City Manager to take the necessary steps to establish a Retirement Health Savings Plan with ICMA Retirement Corporation, including the following: Establish a retiree welfare benefits plan; Execute a plan adoption agreement; Complete all appropriate administrative tasks to establish the plan; Execute the Administrative Services Agreement between the City and ICMA RC for plan administration; Make a declaration of trust establishing the legal entity to hold assets; Adopt the Plan Adoption Resolution; and, any other actions necessary to establish the RHS plan.

(This item was deferred to the March 6, 2008 Work Session)

18. Pass-Through Agreements with the Town of Chapel Hill and Triangle Transit Authority for Allocation, Disbursement and Accounting of Sections 5316 and 5317 Funds

To authorize the City Manager to execute the Pass-through Agreements with the Town of Chapel Hill and the Triangle Transit Authority (TTA) for the allocation, disbursement and accounting of the Section 5316, JARC and Section 5317, NF funds; and

To authorize the City Manager to make modifications to the agreements provided that the modifications do not differ from the original intent of the agreements and do not increase the City's financial obligation

(This item was referred back to the Administration – Transportation Division of Public Works

March 3, 2008

22. Water and Sewer Update

To receive an update on the water drought and sewer spills.

(An update was received at the 02-21-08 Work Session)

23. The Future Development of Leigh Farm Park

To receive a presentation on the Future Development of Leigh Farm Park.

(A presentation was received at the 02-21-08 Work Session)

28. Durham Together for Resilient Youth

To receive comments from Wanda Boone regarding the alcohol and drug related arrest statistical report/results.

(Comments were received at the 02-21-08 Work Session)

32. Presentation on the Planning Commission Resolution on Water Supply

To receive a presentation on the Planning Commission resolution on water supply.

(A presentation was received at the 02-21-08 Work Session)

[GENERAL BUSINESS AGENDA]

**SUBJECT: CAPITAL PROGRAM ADVISORY COMMITTEE – RECEIPT AND
ACCEPTANCE OF APPLICATIONS**

To receive and accept applications for citizens to fill three (3) vacancies on the Capital Program Advisory Committee to represent PAC 3, PAC 4 and PAC 5 with the terms to expire on March 31, 2010.

MOTION by Council Member Woodard seconded by Council Member Clement to direct the City Clerk to re-advertise vacancies on the Capital Program Advisory Committee was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: ATTENDANCE REPORTS FOR BOARDS, COMMITTEES AND
COMMISSIONS**

To receive Attendance Reports from the following Boards; and

March 3, 2008

Audit Services Oversight Committee, Cable TV Advisory Board, Capital Program Advisory Committee, Design District Review Team, Durham Area Transit Authority Board of Trustees, Durham Bicycle and Pedestrian Advisory Commission, Durham Board of Adjustment, Durham City-County Appearance Commission, Durham Civic Center, Durham Convention & Visitors Bureau, Durham Cultural Master Plan Advisory Board, Durham City-County Environmental Affairs Board, Durham Housing Authority Board of Commissioners, Durham Open Space & Trails Commission, Durham Planning Commission, Equal Business Opportunity Program Advisory Committee, Durham Historic Preservation Commission, Human Relations Commission, Housing Appeals Board, Lyon Park Advisory Board, Passenger Vehicle For Hire Commission, Raleigh-Durham Airport Authority, Recreation Advisory Commission, and the Workforce Development Board.

Council Member Woodard commented on Council's attendance policy for Boards, Committees and Commissions and the memo, entitled Attendance Reports for Board, Committees and Commissions from City Clerk Gray, which outlined Boards, Committees and Commissions members who have attended less than 50% of the meetings from March 2007 through December 2007 and have served on the board for more than one year. According to Council procedures regarding the attendance policy, he directed the City Clerk to write these members informing them of their removal from their board, committee or commission.

Mayor Pro Tempore Cole-McFadden made comments on Council hosting a reception to show their appreciation to those members serving on Council's Boards, Committees and Commissions.

City Clerk Gray informed Council that she would make arrangements for the reception.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive Attendance Reports from the following Boards;

Audit Services Oversight Committee, Cable TV Advisory Board, Capital Program Advisory Committee, Design District Review Team, Durham Area Transit Authority Board of Trustees, Durham Bicycle and Pedestrian Advisory Commission, Durham Board of Adjustment, Durham City-County Appearance Commission, Durham Civic Center, Durham Convention & Visitors Bureau, Durham Cultural Master Plan Advisory Board, Durham City-County Environmental Affairs Board, Durham Housing Authority Board of Commissioners, Durham Open Space & Trails Commission, Durham Planning Commission, Equal Business Opportunity Program Advisory Committee, Durham Historic Preservation Commission, Human Relations Commission, Housing Appeals Board, Lyon Park Advisory Board, Passenger Vehicle For Hire Commission, Raleigh-Durham Airport Authority, Recreation Advisory Commission, and the Workforce Development Board; and

To direct the City Clerk to write a letter to the following board members informing them of their removal from their board due to Council procedures regarding the attendance policy for Boards, Committees and Commissions was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

March 3, 2008

BOARD	MEMBER
Durham Cultural Master Plan Advisory Board	V. Diane Pledger
Recreation Advisory Commission	Carolyn Davis
Workforce Development Board	Don Cimorelli
Workforce Development Board	Carl Harris
Workforce Development Board	Rasheedah Hinkston
Workforce Development Board	Denise Johnston

**SUBJECT: INTER-LOCAL AGREEMENT BETWEEN THE CITY OF DURHAM
AND THE COUNTY OF DURHAM FOR SHARING OF SALES TAX
REVENUE**

To find that the 5-year duration of the agreement is reasonable; and

To authorize the City Manager to execute an inter-local agreement with the County of Durham for the sharing of sales tax revenue consistent with the direction and terms provided in the agenda memorandum or more favorable terms should they be reached.

Note: By a vote of 7/0, the City Council deferred this item to the March 6, 2008 City Council Work Session at the request of the City Manager.

SUBJECT: GREENFIRE PHASE II DEVELOPMENT DEAL POINTS

To authorize the City Manager to enter into non-binding Deal Points between the City of Durham and Greenfire Real Estate Holdings, LLC; and

To authorize the City Manager to negotiate a final Development Agreement with Greenfire Real Estate Holdings, LLC.

Note: By a vote of 7/0, the City Council referred this item back to the administration for one cycle at the request of the City Manager.

SUBJECT: LOCAL BEER AND WINE PRIVILEGE LICENSES

March 3, 2008

Council Member Clement expressed concerns with the number of establishments increasing and with fees being too low.

Interim City Attorney Sindelar made comments on the state statute and noted staff would review the issue of taking legislative action to seek a fee increase and report back to the Legislative Committee Meeting scheduled for this week. Also, she indicated that she would contact the North Carolina League of Municipalities concerning this issue.

Victoria Peterson expressed concern with the establishment [Acct #1855 - McDougald Terrace Supermarket] selling alcohol near Burton Elementary School and expressed concern with the fees being too low.

City Manager Baker noted the administration will review the site requirement for Account #1855 McDougald Terrace Supermarket.

Council Member Brown raised a concern with the low fees and asked the City Attorney to report at the Legislative Committee if there is a creative way to circumvent the state mandate and allow the administration to come up with a fee increase.

MOTION by Council Member Clement seconded by Council Member Woodard to approve local beer and wine privilege licenses for the establishments was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti and Woodard. Noes: Council Member Clement. Absent: None.

Status	Acct Name	Physical Address	Type
Renewal	M&M Mini Mart	2128 Angier Ave	Convenience
Renewal	Lighthouse Food Mart #101	2944 Holloway St	Convenience
Renewal	Buy Quick Food Mart	419 S Briggs Ave	Convenience
Renewal	Pop A Top	220 Chandler Rd	Restaurant
Renewal	Taqueria Mi Pueblo	1408 Avondale Drive	Convenience Store
Renewal	Compare Foods	2000 Avondale Drive	Grocery Store
New	Triangle Brewing Company Inc	918 Pearl St	Brewery
New	Crossing Golf Club (The)	4023 Wake Forest Hwy	Country Club
New	New Way Food	1907 Cheek Rd	Convenience Store
New	Cross Roads Express	1007 N Miami Blvd	Convenience Store
Total PAC 1			10
Renewal	R&W Stop & Shop	3310 Dearborn Dr	Convenience Store
Renewal	El Rincon Catracho	2201 N Roxboro Rd	Billiards
Renewal	Jump Shot Billards LLC	3405 Hillsborough Rd, Ste E	Pool Room
Renewal	Country Store	4630 Hillsborough Rd	Convenience
Renewal	Don Cecillos Mexican Grill	5279 N Roxboro Rd	Restaurant

March 3, 2008

Status	Acct Name	Physical Address	Type
Renewal	Lighthouse Food Mart	5300 N Roxboro Rd	Convenience
Renewal	Restaurant Los Amigos	2016 Guess Rd	Restaurant
Renewal	Cole Mill Billiards	1647 Cole Mill Road	Billiards
Renewal	Cattlemans Steakhouse	3520 Hillsborough Road	Restaurant
New	Big Pig Chicken and BBQ Restaurant	2701 Hillsborough Road	Restaurant
New	Dragon Inn	3823 Guess Rd	Restaurant
New	Town N Country #1	1423 E Club Blvd	Convenience Store
New	Vin Rouge	2010 Hillsborough Rd	Restaurant
New	PK's Sport Bar & Billiards	105 Infinity Rd	Billiards
		Total PAC 2	14
Renewal	Francescas Italian Grille	2530 Erwin Rd	Restaurant
Renewal	Saladelia Café	4201 University Dr	Restaurant
Renewal	Walkers Grocery	1003 1/2 Morehead Ave	Convenience
Renewal	Kurama Japanese Seafood Steak House	3644 Chapel Hill Blvd	Restaurant
Renewal	Sals Pizza	2223 Highway 54	Restaurant
Renewal	Hampton Inn & Suites	6121 Farrington Rd	Hotel
Renewal	Shade Tree Coffee	2816 Erwin Rd Ste 201	Restaurant
Renewal	Playa Azul Restaurant	2000 Chapel Hill Rd Ste 14	Restaurant
Renewal	Nosh Restaurant	2812 Erwin Rd	Restaurant
Renewal	Rays Billiards	3201 University Drive	Sports Bar
New	Piper's Deli	3218 Old Chapel Hill Rd	Restaurant
New	Sabra Kosher	4810 Hope Valley Rd, Suite 110	Restaurant
New	Wine Authorities	2501 University Drive, Suite 6-A	Retail Store
New	Brooklyn Pizzeria	2812 Erwin Rd Ste 103	Restaurant
New	Rumba 54	2223 Highway 54	Restaurant
New	Brandywine Cellars Inc	6905 Fayetteville Rd Ste 101	Retail Store
New	TGI Friday's	2608 Erwin Rd Ste 104	Restaurant
New	Six Plates Wine Bar	2812 Erwin Rd Ste 104	Bar
New	Lone Star Steakhouse & Saloon	5307 New Hope Commons Drive	Restaurant
New	Rick's Diner & Catering, Inc.	4015 University Dr Ste A	Restaurant
New	Bake House Bistro - Southpoint	6905-104 Fayetteville Rd	Restaurant
New	Tommys	204 Wannamaker Dr	Restaurant
		Total PAC 3	22
Renewal	McDougald Terrace Supermarket	832 Ridgeway Ave	Convenience
Renewal	Rudino's Pizza & Grinders	4911 Central Park Ln	Restaurant
Renewal	Residence Inn by Marriott	201 Residence Blvd #236	Hotel
Renewal	A Taste of the Carribean & More	908 Fayetteville St	Restaurant

March 3, 2008

Status	Acct Name	Physical Address	Type
New	Manchesters Grill	2121 TW Alexander Dr	Restaurant
New	Bandidos Mexican Café	2806 S Miami Blvd	Restaurant
New	Hilton Garden Inn Southpoint	7007 Fayetteville Road	Hotel
New	Carribean Taste and Catering	908 Fayetteville St Suite 101	Restaurant
Total PAC 4			8
Renewal	Down Under Pub	802 W Main St	Bar
Renewal	Talk of the Town	108 E Main St	Bar
Renewal	James Joyce Irish Pub	912 W Main St	Bar
Renewal	Devines Restaurant & Sports Bar	904 W Main Street	Restaurant
Renewal	MarVell Event Center	119 W Main St	Event Center
Renewal	Cosmic Cantina	1920 1/2 Perry Street	Restaurant
Renewal	Cinellis Pizza	607 Broad Street	Restaurant
Renewal	Pizza Italia Inc	905 W Main St	Restaurant
New	Wingz and Thingz	102 Hood Street	Restaurant
New	Down Under Pub	802 W Main St	Bar
		905 West Main Street Suite	
New	Taverna Nikos	21A	Restaurant
Total PAC 5			11
Total Beer/Wine Renewal			65

**SUBJECT: TIME WARNER AGREEMENT FOR AIRING OF PROGRAMMING –
COUNTY OF DURHAM – TIME WARNER CABLE, INC.**

City Manager Baker recognized Public Affairs Director Beverly Thompson to highlight changes to the agreement.

Public Affairs Director Beverly Thompson reported the scope of services covers the Intake of programs from the public access producers, scheduling and playback of programming, scheduling and screening of public access programming by the Time Warner staff, playback of pre-recorded programming, intake and placement of public service announcements and screening public access producers programming for FCC violations. She outlined the services that would not be provided to include studio use, training, editing, portable equipment use and any other services deemed outside of the playback services. She stated the term would be from March 2008 - December 2008 for a cost of \$12,065.00 for up to 270 hours of programming and the cost to City is \$6,032.50 per month.

City Manager Baker informed Council that the County unanimously approved their share of the cost today, this programming will be occurring on Channel 8 and the discussion concerning a digital tier channel is not a part of this motion.

March 3, 2008

Rev. James Vaughan, of 3206 Cole Mill Road, spoke in support of this item. He thanked Council for their work on this item and expressed one major concern with the rescheduling of producers that were in previous time slots.

Michael Davis, of 3712 Birimi Drive, thanked everyone involved for their work in helping access channel 8 stay active.

Interim Assistant City Attorney Sindelar gave an update on the correspondence from the County that was sent to Time Warner concerning their right to have the basic tier channels that they are entitled to have.

Chad Johnston, of The Peoples Channel in Chapel Hill, urged the Council to review the issue of having a community group or non-profit organization managing the Public Access Center. He stated he submitted a proposal, but has not had the opportunity to speak to anyone on what this could mean for the City and County.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to enter into a contract with the County of Durham and with Time Warner Cable, Inc. for Time Warner Cable, Inc. to air public access programming starting March 1, 2008 through December 31, 2008 at a monthly cost of \$12,065.00, with the City's share of this cost to be \$6,037.50 monthly, for a total appropriation from the City not to exceed \$60,375.00; and

To authorize the City Manager to modify the contract with Time Warner Cable, Inc. before execution provided the modifications do not lessen the duties of the contractor or increase the cost to the City; and

To authorize the City Manager to execute an interlocal agreement with the County of Durham for the shared use of Cable Channel 8 for local government programming, for payment by the County of a maximum of \$15,000 per year to support the airing of County programming, and to make changes to the interlocal agreement which do not substantially alter the meaning of the version of the interlocal agreement presented to the City Council was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

SUBJECT: ZONING MAP CHANGE – HOPE VALLEY CHAPEL HILL TIRE (Z07-40) – MARC PONS, PONS FAMILY, LLC - HOPE VALLEY ROAD

To conduct a public hearing to receive public comments on the zoning map change for Hope Valley Chapel Hill Tire (Z07-40);

March 3, 2008

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-40 out of RS-10 and RS-20 and placing same in and establishing same as CN(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 11-2 on January 8, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report, comments received during the public hearing and additional committed elements proffered by the applicant at the meeting.

[The site is located on the east side of Hope Valley Road, north of NC 54. PIN: 0719-01-20-4013]

City Manager Baker informed Council that Steve Medlin has been named as the City/County Planning Director.

City/County Planning Director Steve Medlin briefed Council on the staff report. He informed Council that a development plan is associated with this request. He stated this request is consistent with the Comprehensive Plan and the applicant has submitted four committed elements to include: additional bicycle parking, limiting the uses that do not generate any more than 149 peak hour trips, limiting the impervious surface to 55% or less and providing curb and gutter along Hope Valley Road. He stated the Planning Commission recommended approval of this item and staff is recommending approval due to the request being consistent with the Comprehensive Plan and the information contained the staff report. He certified that all notifications have been done in compliance with the Unified Development Ordinance and state statutes.

Mayor Bell opened the public hearing.

Proponent

March 3, 2008

Michael Fiocco, representing the applicant, spoke in support of the zoning map change. He outlined reasons why this request has merit discussing the comprehensive plan and the use.

No one spoke in opposition to this zoning map change.

Council Member Catotti addressed issues raised at the Planning Commission Meeting relating to landscaping and pedestrian access.

City/County Planning Director Steve Medlin briefed Council noting the applicant will be meeting the minimum ordinance standards as it relates to landscaping.

Regarding the pedestrian access, Michael Fiocco, representing the applicant, provided Council with a letter they received from their neighbor--Peggy Holt-Ward of Regency Centers. He made comments on the discussion that took place at the Planning Commission Meeting regarding the possibility of a pedestrian cross access. He informed Council that they have a sincere interest in achieving this end, but there are details to work out with the adjoining neighbor and this letter demonstrates that they are interesting in talking with them and working through the issue.

Michael Fiocco, representing the applicant, made a proffer to commit to a good faith effort concerning the pedestrian cross access.

Council held discussion on good faith effort and notifying Council of outcome of good faith effort.

For clarification on the proffer by the applicant, City/County Planning Director Steve Medlin stated the applicant will work in good faith to coordinate with the adjacent property owner to provide the inter-connection that will be reflected at the time of site plan approval and that staff will report back to Council at the time of site plan approval the outcome.

Council Member Catotti asked the applicant if he is agreeing to the proffer re-stated by the City/County Planning Director.

Michael Fiocco, representing the applicant, replied yes.

Mayor Bell closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to conduct a public hearing to receive public comments on the zoning map change for Hope Valley Chapel Hill Tire (Z07-40);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-40 out of RS-10 and RS-20 and placing same in and establishing same as CN(D); and

March 3, 2008

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13554

SUBJECT: ZONING MAP CHANGE – 1603 ED COOK ROAD (Z07-43) – BRENT J. LOCKWOOD – HICKORY NUT DRIVE

To conduct a public hearing and receive public comments on the zoning map change for 1603 Ed Cook Road (Z07-43);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-43 out of RR and placing same in and establishing same as RS-10; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 13-0 on January 8, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report and comments received during the public hearing.

City/County Planning Director Steve Medlin briefed Council on the staff report. He highlighted the following: there is an existing single-family house on the site, the applicant is proposing to rezone the property to RS-10 and outlined the intended use. He stated this request is consistent with the Comprehensive Plan and the Planning Commission recommended approval and staff is recommending approval based on consistency with the Comprehensive Plan and the information

March 3, 2008

contained in the report. He certified that all notifications have been made in accordance with the Unified Development Ordinance and state statutes.

Mayor Bell opened the public hearing.

Opponent

Brent Lockwood, the applicant, made comments in support of this zoning map change. He stated these lots were half-acre lots to accommodate well and septic. He noted on Hickory Nut Drive, there is already City water and sewer. He noted he would cut the lots in half with the same frontage so esthetically they should fit into the neighborhood.

No one spoke in opposition to this zoning map change.

Mayor Bell closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to conduct a public hearing and receive public comments on the zoning map change for 1603 Ed Cook Road (Z07-43);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-43 out of RR and placing same in and establishing same as RS-10; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13555

SUBJECT: ZONING MAP CHANGE – 1607 ED COOK ROAD (Z07-44) – BRENT J. LOCKWOOD – HICKORY NUT DRIVE

To conduct a public hearing and receive public comments on the zoning map change for 1607 Ed Cook Road (Z07-44);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-44 out of RR and placing same in and establishing same as RS-10; and

March 3, 2008

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials

or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 7-6 on January 8, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report and comments received during the public hearing.

[The site is located at the southeast corner of the intersection of Ed Cook Road and Hickory Nut Drive. PIN: 0830-04-70-0189]

City/County Planning Director Steve Medlin briefed Council on the staff report. He stated the applicant is requesting a rezoning from rural residential to RS-10 because the applicant would like to subdivide property for additional single-family lots. He made comments on the existing single family home on this parcel, stated there are no site constraints, request is consistent with the Comprehensive Plan and the Planning Commission recommended approval of this request. He stated staff is recommending approval based on consistency with the Comprehensive Plan and the information contained in the staff report. He certified that all notices have been carried out in accordance with the Unified Development Ordinance standards and state statutes.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

Council Member Woodard stated he could not support flag lots because they are not good public policy and future owners would have problems accessing property.

Brent Lockwood, the applicant, explained his reason for having flag lots commenting on the soil condition and water issue.

City/County Planning Director Steve Medlin briefed Council on issue of flag lots.

March 3, 2008

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to conduct a public hearing and receive public comments on the zoning map change for 1607 Ed Cook Road (Z07-44);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-44 out of RR and placing same in and establishing same as RS-10; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Catotti and Clement. Noes: Council Member Brown and Woodard. Absent: None.

Ordinance #13556

SUBJECT: ZONING MAP CHANGE – ERWIN ROAD MIXED USE (Z07-38) – THE CROSLAND GROUP, INC. – 2530 ERWIN ROAD

To conduct a public hearing and receive public comments on the zoning map change for Erwin Road Mixed Use (Z07-38);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-38 out of CN and placing same in and establishing same as MU(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 11-2 on January 8, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public

March 3, 2008

interest and recommends approval based on the information in the staff report, comments received during the public hearing and additional committed elements proffered by the applicant at the meeting.

City/County Planning Director Steve Medlin briefed Council on the staff report. He reported there is a development plan associated with this request, commented on the use. Relative to the small stream that is left, the applicant would be required to provide a stream buffer or pipe according to the UDO. He briefed Council on the committed elements to include limiting the number of residential units to 370, the building height will not exceed 100 feet in height, a number of transportation improvements including additional right of way dedications, curb and gutter sections for Downing Street, bus shelters, speed humps on Douglas Street and Shirley Street subject to approval by the City's Transportation/Public Works Department, \$10,000 to Durham Public Schools prior to approval of site plan, and installation of water saving devices within the development. He stated the request is consistent with the Comprehensive Plan, the Planning Commission recommended approval and staff is recommending approval based on consistency with the Comprehensive Plan and considering the information in the staff report. He certified all public notices have been carried out in accordance with the Unified Development Ordinance standards.

Mayor Bell opened the public hearing.

Proponents

Patrick Byker, representing the applicant, spoke in support of this zoning map change. He outlined reasons why this item should be approved highlighting that the project is an exciting mixed-used, its context and location, project would increase tax revenue and complete the re-development of Erwin Road. He discussed meeting held with the Crest Street Community and urged Council to support this request.

Willie Patterson, representing Crest Street Council, made comments in support of this request. He made comments on the need for speed humps, and stated this development will be an improvement to the neighborhood.

Council held discussion on why the community was denied speed humps.

City Manager Baker stated he would meet with Mr. Patterson and investigate basis for denial of speed hump request and report back to Council.

Willie Patterson made comments on a letter he submitted in January requesting four additional speed humps in the community.

Regarding committed element #9, Council Member Catotti asked the applicant if they would commit to true low-flow toilets [1.28].

Patrick Byker, representing the applicant, relied yes.

March 3, 2008

No one spoke in opposition to this request.

Mayor Bell closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to conduct a public hearing and receive public comments on the zoning map change for Erwin Road Mixed Use (Z07-38);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-38 out of CN and placing same in and establishing same as MU(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13557

At this time during the meeting, City Manager Baker asked Council to reconsider the following action taken on Consent Agenda Item #29—Voluntary Annexation Petition-Duke Lemur Center. He asked Council to change the effective date to April 30, 2008.

SUBJECT: VOLUNTARY ANNEXATION PETITION RECEIVED BY JANUARY 1, 2008 - DUKE LEMUR CENTER

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to reconsider the action taken on Consent Agenda Item #29 Voluntary Annexation Petition was approved at 8:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

MOTION by Council Member Woodard seconded by Council Member Catotti to adopt a resolution scheduling a public hearing for Monday, March 17, 2008 to receive citizen comments concerning a voluntary petition for the following property to be annexed with a recommended effective date of April 30, 2008 was approved at 8:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

a) FY2008-10 Duke Lemur Center

March 3, 2008

There being no further business to come before the City Council, the meeting was adjourned at 8:36 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk